

Remarks

The Office Action dated July 12, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-7 and 9-20 are pending in this application. Claims 1-7 and 9-16 stand rejected. Claims 17-20 are newly added.

In accordance with 37 C.F.R. 1.136(a), a two month extension of time is submitted herewith to extend the due date of the response to the Office Action dated July 12, 2005, for the above-identified patent application from October 12, 2005, through and including December 12, 2005. In accordance with 37 C.F.R. 1.17(a), authorization to charge a deposit account in the amount of \$450.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-7 under 35 U.S.C. § 103 (a) as being unpatentable over Ohta (US 5,780,129) in view of Evans et al. (US 4,397,490) is respectfully traversed.

Because the Examiner keeps repeating the same rejections based on the same art, totally ignoring the explanations provided by Applicants, it is clear that the Examiner is confused as to the meaning of the term "energy absorber". The Federal Circuit, in Phillips v. AWH Corp., 75 USPQ2d 1321 (Fed. Cir. 2005), has recently ruled that the meaning of terms in the claims should be construed in light of the specification. The present application describes in paragraph [0012] that "energy absorber 13 when combined with a reinforcing bumper beam 19 and a fascia 12 form an energy absorbing bumper system for an automotive vehicle." Also, Figure 5 of the present application shows the three individual components of the bumper system. Applicants submit that it is clear from this description that the term "energy absorber" means an apparatus that is part of a bumper system and, as shown in Figure 5, that is positioned between the bumper beam 19 and the fascia 12. Applicants respectfully submit that the term "energy absorber" used

in conjunction with a bumper system is a term of art that is well known by one skilled in the art, see, for example, U.S. Patent Nos. 6,406,081, 6,669,251, 6,726,262, and 6,866,313. The bumper described by Ohta is not an "energy absorber" as known by one skilled in the art and as defined in the specification of the present application.

Further, Applicants respectfully submit that when the term "energy absorber" is construed properly, as one skilled in the art would construe the term, and as defined in the present application, that the Section 103 rejections of the claims are improper because a *prima facie* case of obviousness has not been established,

Ohta describes a multi-layered blow-molded hollow automobile bumper. The automobile bumper (B₁) includes a main bumper body (1) made from glass reinforced ABS having a molding shrinking factor of 0.5%, and a surface portion(2) made of an olefinic elastomeric resin having a molding shrinking factor of 1.8%. The two layers are secured to each other by a clamping force caused by the difference in the molding shrinking factors of the two layers (see Col. 9, line 60 through Col. 10, line 38). The bumper does not include an energy absorber. Particularly, Ohta does not describe nor suggest a blow molded single piece energy absorber structure.

Evans et al. describes a bumper assembly that includes a stamped steel "C" section face bar 12 attached to a steel backplate 13 to form an all steel box section beam. The bumper assembly does not include an energy absorber. Particularly, Evans et al. do not describe nor suggest a blow molded single piece energy absorber structure.

Claim 1 of the present application recites an energy absorber that comprises "a blow molded thermoplastic single piece structure having a rearward facing support portion and a crushable forward projecting portion adapted to crush upon the impact, said support portion

comprising a flange extending around a periphery of said support portion for attaching said energy absorber to a bumper beam, said forward projecting portion comprising a plurality of forwardly projecting crushable members".

Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Particularly, Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber that is a blow molded thermoplastic single piece structure having a rearward facing support portion and a crushable forward projecting portion adapted to crush upon the impact, with the support portion including a flange extending around a periphery of the support portion for attaching said energy absorber to a bumper beam, and the forward projecting portion comprising a plurality of forwardly projecting crushable members. Rather, Ohta describes a non-single piece, multi-layered automobile bumper that does not include an energy absorber. The Ohta bumper assembly includes a hollow main bumper body and a decorative fascia layer attached to the main bumper body. The Ohta bumper assembly is not adapted to attach to a vehicle bumper. The Ohta bumper does not include an energy absorber having crushable forward projecting portion comprising a plurality of forwardly projecting crushable members, and a support portion having a flange extending around its periphery. Also, the Evans et al. bumper assembly does not include an energy absorber. Rather Evans et al. describe a stamped steel "C" section face bar attached to a steel backplate to form an all steel box section beam. The Evans et al. bumper does not include an energy absorber having crushable forward projecting portion comprising a plurality of forwardly projecting crushable members, and a support portion having a flange extending around its periphery. Accordingly, because the combined teachings of Ohta and Evans et al. do not describe nor suggest all the

elements of the energy absorber recited in Claim 1, a *prima facie* case of obviousness has not been established.

Further, Applicants disagree with the suggestion at page 2 of the Office Action that Ohta "describes an energy absorber for attachment to a bumper beam R_1 for absorbing forces generated from an impact, said energy absorber comprising a blow molded thermoplastic unitary structure having a rearward facing support portion R_2 and a crushable forward projecting portion 1 adapted to crush upon impact" because this statement contradicts the teachings of Ohta. Particularly, Ohta describes at Col. 9, lines 61-66, that "bumper B_1 comprises a main body 1 . . . and a surface portion 2". Applicants submit that Ohta teaches that reference number 1 refers to the main body of the Ohta bumper and not a crushable forward projecting portion of an energy absorber. Further, Ohta describes that "In the bumper B_1 , of Example 1, the front marginal-wall portion is a convexly crooked portion R_1 . . . and the rear marginal-wall portion is a concavely crooked portion R_2 ". Applicants submit that Ohta teaches that reference number R_1 refers to a convexly crooked portion of the front marginal-wall of the bumper B_1 and does not refer to the bumper beam as a whole. Further, Applicants submit that Ohta teaches that reference number R_2 refers to a concavely crooked portion of the rear marginal-wall of bumper B_1 and does not refer to a rearward facing support portion of an energy absorber.

Further, combining the stamped steel flange of the steel backplate of Evans et al. with the bumper of Ohta does not produce an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Rather, the combination of the teachings of Evans et al. with the teachings of Ohta results in a plastic bumper having a metal flange on the back face, which is not an energy absorber.

Still further, Applicants submit that it would not be obvious to one skilled in the art to combine the teachings of Evans et al. with the teachings of Ohta because there is no motivation to do so. Particularly Ohta teaches a blow molded plastic bumper and Evans et al. teach a steel bumper beam. The teachings are nonanalogous because the properties and requirements of plastic structures are entirely different from those of steel structures. As is well known, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Evans et al. teach a steel bumper beam and not a plastic structure as taught by Ohta.

At least for the reasons explained above, Applicants submit that independent Claim 1 is patentable over Ohta and Evans et al., alone or in combination.

Claims 2-7 depend from independent Claim 1. When the recitations of dependent Claims 2-7 are considered in combination with the recitations of Claim 1, Applicants respectfully submit that Claims 2-7 likewise are patentable over Ohta and Evans et al., alone or in combination.

The rejection of Claims 1-7 and 9-16 under 35 U.S.C. § 103(a) as being unpatentable over Tamada et al. (US 6,406,079) in view of Ohta (US 5,780,129) and Evans et al. (US 4,397,490) is respectfully traversed.

As explained above, Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Accordingly, Claim 1 is patentable over Ohta and Evans et al., alone or in combination.

Tamada et al. describe an automobile bumper that includes a fascia and a pair of bumper cores that are interposed between the fascia and the car body. Each bumper core includes an front wall, an opposing rear wall, a pair of opposing side walls, and a plurality of ribs extending

between the front and rear walls. Tamada et al. do not describe nor suggest an energy absorber that is a blow molded thermoplastic single piece structure having a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam.

Tamada et al., Ohta, and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Particularly, Tamada et al., Ohta, and Evans et al., alone or in combination, do not describe nor suggest an energy absorber that is a blow molded thermoplastic single piece structure having a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam. Rather, as explained above, Ohta describes a non-single piece, multi-layered automobile bumper that does not include an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Also, the Evans et al. bumper assembly does not include an energy absorber. Rather Evans et al. describe a stamped steel "C" section face bar attached to a steel backplate to form an all steel box section beam. The Evans et al. bumper does not include an energy absorber having crushable forward projecting portion comprising a plurality of forwardly projecting crushable members, and a support portion having a flange extending around its periphery. Further, Tamada et al. describe a pair of bumper cores with each having a front and a rear wall. However, Tamada et al. do not describe a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam. Accordingly, because the combined teachings of Tamada et al., Ohta and Evans et al. do not describe nor suggest all the elements of the energy absorber recited in Claim 1, a *prima facie* case of obviousness has not been established.

Still further, Applicants submit that it would not be obvious to one skilled in the art to combine the teachings of Evans et al. with the teachings of Tamada et al. because there is no motivation to do so. Particularly Tamada et al. teaches a bumper that includes a bumper fascia and a bumper core. The bumper core is disposed between the inside of the bumper fascia and the car body. Applicants submit that there is no motivation to include a flange around the core pieces of Tamada et al. to permit attachment to a bumper beam because the bumper taught by Tamada et al. does not include a bumper beam. As is well known, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Evans et al. teach a steel bumper beam that includes a steel flange and Tamada et al teach a bumper core that lies between the bumper fascia and the car body.

Accordingly, Applicants submit that Claim 1 is patentable over Tamada et al., Ohta, and Evans et al., alone or in combination.

Claims 2-7 and 9-16 depend from independent Claim 1. When the recitations of dependent Claims 2-7 and 9-16 are considered in combination with the recitations of Claim 1, Applicants respectfully submit that Claims 2-7 9-16 likewise are patentable over Tamada et al., Ohta, and Evans et al., alone or in combination.

For the reasons set forth above, Applicants respectfully request that the Section 103(a) rejection of Claims 17 and 9-16 be withdrawn.

Applicants respectfully submit that for at least the reasons set forth above, newly added Claims 17-20 are patentable over the cited art.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael Tersillo". The signature is written in a cursive style with a large, stylized "M" and "T".

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